



STATE MINING AND GEOLOGY BOARD

DEPARTMENT OF CONSERVATION

801 K Street • Suite 2015 • Sacramento, California 95814

www.conservation.ca.gov/smgb

smgb@conservation.ca.gov



ARNOLD
SCHWARZENEGGER
GOVERNOR

CONFORMED MINUTES

THE STATE MINING AND GEOLOGY BOARD

Conducted a Regular Business Meeting on:

Thursday, December 11, 2008

DRAFT

9:00 A. M.

The Mission Inn
Galleria Room
3649 Mission Inn Avenue
Riverside, California 92501

AGENDA

For questions regarding this Agenda, please contact the SMGB office by telephone at (916) 322-1082, or by facsimile at (916) 445-0738. This Notice and associated staff reports can be accessed electronically at the SMGB's Internet web site at: <http://www.consrv.ca.gov/smgb/> (note: Agenda reports should be available electronically approximately one week prior to the scheduled meeting/hearing date).

The SMGB requests that all lengthy comments be submitted in writing in advance of the meeting date. To ensure that the SMGB has the opportunity to fully preview written material, comments should be received in the SMGB office no later than 15 days prior to the scheduled meeting date, and must indicate the Agenda Item to which it relates. For written material in excess of two pages, or that contains large maps, photos, foldouts, or other documents requiring special handling, please submit 12 copies. The SMGB will not reproduce these types of documents. Comments on Agenda Items will be accepted by electronic mail, and are subject to the same conditions set forth for other written submissions.

Individuals are responsible for presenting their own projects at the meeting.

[NOTE: Times are approximate. The chairman may alter the hearing start time or agenda item order during the meeting.]

I. Call to Order (Jones)

II. Roll Call and Declaration of a Quorum

The meeting was called to order at 9:00 A. M. by Chairman Jones, with all members present, and a quorum was declared.

III. Director's Report (Luther, Department of Conservation) [Information]

On behalf of the Director, Deputy Director Jason Marshall reported on the following:

- The general status of the legislature's efforts to arrive at a budget by January 10, 2009, was presented. The Director is concerned about CGS's overall budget since it largely operates from general funds.
- Due to budget concerns statewide, it will be important for the SMGB to minimize costs and thus, travel, unless warranted.

Office of Mine Reclamation Report (O'Bryant) [Information]

Mr. Dennis O'Bryant, Assistant Director with OMR, reported on the following:

- OMR has reviewed and prepared comments on the SMGB's proposed Reclamation Plan Form.
- OMR recently reviewed a proposed reclamation plan for the Golden Queen Mine located in Kern County, and a CEQA document for the Idaho-Maryland Mine located in the City of Grass Valley.
- OMR received a number of complaints for the New Era Mine located in Butte County, and conducted a site visit. Another complaint was received for a surface mine site located in Sacramento County.
- OMR has been advising lead agencies as to the need for adjusting financial assurances, and evaluating whether the requirements for the AB 3098 list are being met.
- Filling of positions for the Lead Agency Review team is being pursued.
- OMR is working with the Bureau of Land Management in pursuing funds for the abandoned mines program.

State Geologist's Report (Parrish) [Information]

Dr. John Parrish, State Geologist and Director of the California Geological Survey (CGS), was not available to attend this meeting, thus, no State Geologist report was provided.

- Member Tepel inquired in consideration of budgetary concerns, with regards to whether CGS staff would still be available to the SMGB via contract to analyze and summarize findings in the matter of the upcoming Western Aggregates Vested Rights Determination. Deputy Director Marshall indicated that CGS staff remains available to the SMGB as previously discussed.

IV. Chairman's Report (Jones) [Information]

No report provided.



V. Executive Officer's Report (Testa) [Information]

Executive Officer Stephen Testa summarized the following recent and upcoming activities of the SMGB:

- The SMGB has received an administrative appeal for the historic Sixteen-to-One gold mine located in Sierra County. If, upon review, the appeal falls within the jurisdiction of the SMGB and is accepted, the SMGB will hear this matter at the upcoming February 5, 2009, regular business meeting.
- The SMGB has received several complaints pertaining to the overall SMARA lead agency performance of Butte County, Sierra County and Ventura County. Preliminary review is being performed by the Executive Officer with assistance from OMR.
- The Executive Officer was requested to assist in the appropriate application of SMARA to an alleged unpermitted surface mining operation in Sierra County, located on USFS land. A site visit occurred on October 7, 2008. The Executive Officer was accompanied by representatives of USFS, Sierra County, Office of Mine Reclamation and the operator.
- There are approximately 30 CEQA and General Plan related documents currently under review by the Executive Officer, including those for the Counties of Marin, Riverside, Tuolumne, San Diego and Santa Cruz, and several cities (Claremont, Palm Springs, Riverside, Sacramento, and Temecula).
- Twenty-five (25) out of 45 surface mine inspections have been completed to date, with the remainder anticipated to be completed by end of year. Twelve of the remaining sites are marine dredging operations that do not require a physical inspection.
- The SMGB's office received an administrative record from Attorney Kerry Shapiro on behalf of Western Aggregates, LLC., on October 31, 2008. A determination that such submittal was within the jurisdiction of the SMGB was made by the Chairman on November 19. An estimated cost for conduct of such determination by CGS and the SMGB is in progress, and due by December 19. The Mailing of Notice of Pending Vested Rights Determination is anticipated by January 6, 2009. A determination of findings from CGS is anticipated by March-April 2009. Several agenda items will be before the SMGB for its February 5, 2009, regular business meeting, including 1) determination as to who will conduct the hearing(s), and 2) determination of a schedule for holding of a public hearing(s). In addition, the rulemaking packet for the SMGB's amendment to the SMGB's regulations for conduct of a vested rights determination when serving as a SMARA lead agency was published in the California Regulatory Notice Register (Volume No. 44-Z) on October 31, 2008, for the required 45-day review and comment period. The comment period ends on December 15, 2008.
- A Vested Rights Request for Determination for the Big Cut Mine located in El Dorado County is anticipated, but not received to date.



- The SMGB received a reclamation plan for the Three Rivers Levee Improvement Authority, Feather River Levee Repair Project, Segment 2, located in Yuba County. Activities commenced in June 2008 and will cease by November 15, 2008, but will resume operations in the spring of 2009. No approved reclamation plan and approved financial assurance exist. After conduct of a site visit by SMGB staff on November 14, 2008, and review of submitted documents by OMR and SMGB staff, the operation was determined, at least in part, to not be exempt from SMARA. A Notice of Violation is anticipated to be issued in mid December, and the SMGB can anticipate considering approval of a reclamation plan, financial assurance cost estimate in the form of a budget set-aside, and pertinent CEQA documents to rely upon, at its upcoming February 5, 2009, regular business meeting.
- The SMGB received notice from El Dorado County pertaining to an unpermitted grading/surface mining operation. A site visit by SMGB staff, to be accompanied by County personnel, is in the process of being scheduled.
- A draft reclamation plan form being developed and to eventually be used by the SMGB when serving as a SMARA lead agency, has been reviewed by OMR staff, and will be before the Surface Mining and Standards Committee for recommendation consideration, and the SMGB for acceptance consideration, at the SMGB's upcoming February 5, 2009, regular business meeting.
- The Executive Officer was invited to Stanford University to make a presentation to faculty and students within the renamed Energy and Resources Engineering Department. A presentation is scheduled for May or April 2009.
- The Executive Officer provided a presentation at the University of Riverside on "*The Future of the Geosciences Workforce - Planning a Career in the Geosciences.*" The presentation as well received, and following such presentation, the Executive Officer was invited to provide a similar presentation at Pomona College on January 22, 2009, and another to be scheduled at California State University at Fullerton.
- The Executive Officer has been requested to chair a symposium on mine reclamation at the upcoming 2009 annual national fall meeting of the Association of Engineering and Environmental Geologists. The meeting will be held in South Lake Tahoe.
- The Executive Officer prepared editorials and musings on media, culture, policy and the role the earth sciences play in our lives. These pieces are published for certain National venues (i.e., the American Geological Institute's flagship magazine *EARTH*, *Environment & Climate News*, American Association of Petroleum Geologists *Explorer*, among others). The purpose of these pieces pertains to the role earth science plays in our daily lives, with the aim to educate and engage the general public.

VI. Ex-Parte Communication Disclosure [Information]

[Board Members will identify any discussions they may have had requiring disclosure pursuant to Public Resources Code Sections 663.1 and 663.2.]



No Ex-Parte communications were disclosed.

VII. Good of the Meeting [Information]

[This time is scheduled to provide the public with an opportunity to address non-agenda items. Those wishing to speak should do so at this time. All persons wishing to address the SMGB should fill out a speaker card and present it to the Secretary so that the Chair can determine the number of persons who wish to speak. Speakers are limited to three minutes except by special consent of the Chairman.]

No information was provided.

VIII. Consent Items [Action]

[All the items appearing under this section will be acted upon by the SMGB by one motion and without discussion; however, any Board member wishing to discuss a particular item may request the Chairman to remove the item from the Consent Calendar and consider it separately under Continued Business or New Business.]

1. Approval of Minutes, September 11, 2008, Regular Business Meeting.

Board Member Lund moved to approve the minutes. Board Member Garner seconded and the motion carried with a unanimous voice vote.

Note: Items #7 through #10, as discussed below, were moved to the Consent calendar and approved with a unanimous voice vote following a motion by Board Member Garner and a second by Board Member Lund.

IX. Continued Business [Action]

[These business items have been continued from a previous meeting/hearing.]

No continued action items were presented.

X. New Business [Action]

2. Acceptance of a Petition for Re-Classification of Mineral Resource Zone (MRZ) Lands from MRZ-3a to MRZ-2a, Day Street Project, Riverside County.

Executive Officer Testa stated that TerraMins, Inc., on behalf of First Industrial Realty Trust, submitted a petition dated August 6, 2008, for mineral land classification of 500 acres of land referred to as the Day Street Project, located in Riverside County. The petitioner also provided \$5,000 of which \$1,000 dollars were used by CGS to perform a preliminary review. Based on a preliminary review, the State Geologist concluded 1) the material will likely meet the quality specifications for Portland Concrete Cement aggregate; and 2) preliminary calculations based on information provided by the petitioner indicates the parcel contains aggregate resources in excess of the threshold value of \$12,550,000 (1998 dollars) or \$16,666,000 (2007 dollars), as required for MRZ2a or MRZ-2b (inferred) for PCC grade aggregate. The petitioner will, should the SMGB accept the petition, provide CGS an



additional \$12,112 dollars for CGS to complete the full classification study. Any unused funds would be returned to the petitioner. The SMGB is considering accepting the petition.

- Mr. Warren Coalson, with EnviroMINE, Inc., stated that he was in favor of the petition.

Board Member Garner moved to accept the petition. Member Lund seconded and the motion carried.

3. Adoption of Revised Mineral Resources Management Policies, City of Irwindale 2020 General Plan Resources Management Element, Pursuant to Public Resources Code Section 2762.

Executive Officer Testa stated that every lead agency is required to establish MRMPs within one year of receiving mineral information classified by the State Geologist, or designation of an area of statewide or regional significance within its jurisdiction. Pursuant to Title 14 CCR Article 6, Sections 3675 and 3676, interpretation of the regulations governing MRMPs, certain information must be included such as 1) information provided by the class/design reports, or incorporated by reference, 2) reference in the General Plan, and 3) maps, identification by reference, or conditions imposed on identified mineral deposits. Executive Officer Testa in his review has deemed the MRMPs to be in compliance with the requirements of SMARA, and the SMGB's regulations, and commented that the MRMP was comprehensive and well-thought out. The SMGB was considering adoption of Resolution No. 2008-07 conditionally recognizing the City of Irwindale's revised MRMP.

- Mr. Raymond Hamada, Director of Planning and Community Development for the City of Irwindale, was available for any questions the SMGB may have.
- Member Isham commended Mr. Hamada and his staff, and former SMGB Member Robert Griego, for their efforts and for their long-term vision for the community they serve.

Board Member Isham moved to adopt the MRMP. Board Member Lund seconded and the motion carried with a unanimous voice vote.

4. Acceptance of California Geological Survey Special Report 206 on Mineral Land Classification for Portland Cement Concrete-Grade Aggregate in the San Bernardino Production-Consumption Region, San Bernardino and Riverside Counties, California.

Executive Officer Testa stated that the SMGB, based on recommendations from the State Geologist, and public input, prioritizes areas to be classified and/or designated. Consistent with the SMGB's guidelines, the State Geologist may periodically review mineral land classification information in defined study regions to determine if reclassification is necessary. CGS Special Publication SP 206, updates information previously presented in a classification report on Portland cement concrete-grade aggregate in the San Bernardino Production - Consumption Region, completed in 1984 (SR 143, Part VII). At the SMGB's September 13, 2007, regular business meeting, CGS provided a schedule and prioritized



program of current and planned activities for mineral land classification and associated projects. The report under consideration by the SMGB was considered high priority.

- Mr. John Clinkenbeard, Manager of CGS's Mineral Resources Program, provided a brief introduction.
- Mr. Russell Miller, Senior Engineering Geologist with CGS, provided a brief summary of the classification under consideration, noting that relative to the number of acres designated in 1987 (25,238 acres), 4,427 acres were lost to incompatible uses; whereas, 959.2 million tons of mineral resources was lost. In addition, 22,293 acres, or 5,986 million tons, remain. In regards of permitted resources, there remains 287 million tons in reserve. Updated information pertaining to per-capita consumption, population, estimated 50-year demand, resources and reserves, and estimated depletion date was also presented.
- Member Isham commented on the adverse effects of lost mineral resources in this region.
- Mr. Warren Coalson with EnviroMINE, Inc., commented on mineral resources lost as a result of other land encroachment factors not reflected in the report, such as wildlife preservation. For example, of the six million tons noted in the report, only about 20 percent of this total is truly available.
- Mr. Russell Miller noted that although such information is not provided, this issue is addressed in part by the designation process.

Board Member Isham moved to accept the classification report. Board Member Tepel seconded and the motion carried with a unanimous voice vote.

5. Consideration for Approval of a Request for Exemption from the Requirements of the Surface Mining and Reclamation Act (SMARA, Public Resources Code Section 2710 et seq.) Pursuant to Section 2714(f) for the Hester Granite (CA Mine ID #91-37-0020), Hanson Aggregates (Operator), Joel Cloud (Agent), County of San Diego.

Executive Officer Testa stated that SMARA allows for a one-time exemption from SMARA for certain surface mining operations should the SMGB find that the operation is 1) of an infrequent nature, and 2) involves only minor surface disturbances – pursuant to PRC 2714(f). In June 2008, EnviroMINE, Inc., on behalf of the Hester Granite Company, requested a one-time exemption from SMARA for the Willow Glen Drive improvement project located in the unincorporated area of Rancho San Diego, San Diego County. The project entails construction of a catchment trench along a portion of Willow Glen Drive, as a precautionary effort to prevent boulders from falling on to the roadway due to, in part, periodic blasting from the adjacent surface mining operation. The location of the trench is outside the existing surface mining footprint for the quarry site. This catchment trench is planned to be 1,350 feet in length, 60 feet in width, and 20 feet in depth. The area impacted is on the order of 3.9 acres. The amount of material to be excavated is on the order of 100,000 cubic yards. Of this total, 30,000 cubic yards is planned to be used for fill; whereas, 70,000 cubic yards is planned for processing and sale at the Hester Granite quarry. The criteria to be considered by the SMGB are:



- Compliance with CEQA – Has an environmental review been completed on the activity either separately or as part of a larger project?
- Is the activity permitted or otherwise authorized by a local agency.
- Is the end use or proposed end use of property on which the activity occurs defined?
- Have impacts of the operation on commercial activities been considered?

The Executive Officer concluded that this request did not meet the requirements of SMARA or the SMGB's criteria for consideration of such exemptions. Notably, 1) the exemption is being requested to minimize the potential adverse impact from an existing mining operation, 2) the applicant has not obtained all the necessary permits, and 3) the applicant has not completed an environmental analysis.

- The SMGB heard from their legal counsel, Ms. Deborah Wordham; Mr. Brian Baca Chief of Regulatory Planning for the County of San Diego; Mr. Warren Coalson, with EnviroMINE, Inc. consultant on behalf of the operator; and Mr. Jon Cloud, son of the Principal of the family-owned business.
- Members Bly-Chester, Isham, Lund, and Tepel commented on the proposed exemption request.
- Chairman Jones stated that he was persuaded by the additional testimony provided to view the project as a one-time activity involving a relatively small quantity of material relative to that annually produced by the operator, and he was confident that the planned activity would be closely monitored and under the regulatory oversight of the County of San Diego.
- Mr. Dennis O'Bryant, Assistant Director for the Office of Mine Reclamation, and OMR's legal counsel Mr. Greg Tenorio, recommended that the SMGB not grant the one-time exemption, and that the planned activities were deemed an extension of the existing surface mining operation for the purpose of minimizing and mitigating the adverse impact of blasting as part of the surface mining operation, and such activity is subject to SMARA.

Board Member Bly-Chester moved to approve the one-time exemption request. Board Member Isham seconded, and the motion carried with a majority voice vote with Board Member Garner opposed.

6. Approval of an Interim Financial Assurance Cost Estimate for the Richmond (Chevron) Quarry (CA Mine ID #91-07-0006), Dutra Materials (Operator), Harry Stewart (Agent), City of Richmond.

Executive Officer Testa stated that the SMGB is the SMARA lead agency for the City of Richmond. The site is characterized by an unstable cut slope that encompasses about 7 acres and is about 350 feet in height. The SMGB's regulations, notably, CCR Section 3704(f), require that *"Cut slopes, including final highwalls and quarry faces, shall have a minimum slope stability factor of safety that is suitable for the proposed end use, and conform with the surrounding topography and/or approved end use."* In May 2008, the Geohazards Committee determined that SMARA and the Boards regulations required that



the cut slope be mitigated, and thus, an interim financial assurance cost estimate (FACE) needed to be provided which reflected a minimum, albeit reasonable, cost for mitigation of the cut slope. The estimated cost for mitigation, as determined in April 2008 ranged from \$3,675,000 to \$32,357,500. After several discussions with the operator and their consultant, the operator provided an inadequate interim FACE for the amount of \$550,000, reflecting only monitoring and maintenance. This amount was deemed grossly inadequate should the SMGB as lead agency have to reclaim the site in accordance with the approved 1981 Reclamation Plan. The SMGB was considering rejecting the proposed FACE for the amount of \$550,000, and requesting a minimum interim FACE in the amount of \$3,675,000, while the operator completes the required geotechnical analyses and amended reclamation plan.

- Ms. Mignone Wood, consultant with LSA Associates and representing Dutra Materials, stated that the Executive Officer's recommendation of the Interim Financial Assurance Cost Estimate was not represented by the record, that all of the SMGB's concerns have been adequately addressed by the numerous studies that were performed by Dutra and Chevron's consultants, and that the Executive Officer's report was capricious and arbitrary. A summary of such studies, and basis for the proposed Alternative 5, was provided.
- Member Tepel requested that this matter be deferred until the Geohazards Committee meets.
- Chairman Jones expressed his opinion that the estimated costs for monitoring, as presented by the operator, were unreasonably low and provided no growth factor, and that the methodology may not be defensible.
- Member Garner concurred to defer this matter until the Geohazards Committee meets.
- Member Isham concurred.

7. Approval of an Adjusted Financial Assurance Cost Estimate for the Teichert Aggregates Cool Cave Quarry (CA Mine ID #91-09-0005), Teichert Aggregates (Operator), Jeff Thatcher (Agent), El Dorado County.

Executive Officer Testa stated that the SMGB serves as the Lead Agency under SMARA for the County of El Dorado. The site encompasses about 100 disturbed acres. Based on the most recent late 2008 inspection, the FACE was adjusted from \$2,770,247.61 to \$3,210,146.22. The FACE has been reviewed by OMR and SMGB staff, and deemed adequate for the purpose of reclaiming the site in a manner consistent with the approved reclamation plan.

Board Member Garner moved to approve the adjusted financial assurance cost estimate. Board Member Lund seconded and the motion carried with a unanimous voice vote.

8. Approval of Adjusted Financial Assurance Cost Estimate for the Cal Sierra surface mining operation (CA Mine ID #91-58-0003), Cal Sierra Development, Inc. (Operator), Anthony Massey (Agent), Yuba County.



Executive Officer Testa stated that the SMGB serves as the Lead Agency under SMARA for the County of Yuba. The site encompasses about 2,000 acres. Based on the 2007 inspection, the FACE was adjusted from \$1,637,918 to \$1,346,075.14. The FACE reflects dollars attributable to disturbed land, and dollars attributed to the unlikely event of a dredge sinking. The FACE has been reviewed by OMR and SMGB staff, and deemed adequate for the purpose of reclaiming the site in a manner consistent with the approved reclamation plan.

Board Member Garner moved to approve the adjusted financial assurance cost estimate. Board Member Lund seconded and the motion carried with a unanimous voice vote.

9. Approval of Adjusted Financial Assurance Cost Estimate for the Teichert Aggregates Hallwood Facility (CA Mine ID #91-58-0006), Teichert Aggregates (Operator), Lillie Noble (Agent), Yuba County.

Executive Officer Testa stated that the SMGB serves as the Lead Agency under SMARA for the County of Yuba. The site encompasses about 330 disturbed acres. Based on the most recent 2008 inspection, the FACE was adjusted from \$1,107,713 to \$1,496,803. The FACE has been reviewed by OMR and SMGB staff, and deemed adequate for the purpose of reclaiming the site in a manner consistent with the approved reclamation plan.

Board Member Garner moved to approve the adjusted financial assurance cost estimate. Board Member Lund seconded and the motion carried with a unanimous voice vote.

10. Approval of Adjusted Financial Assurance Cost Estimate for the Wheatland Clay Pit (CA Mine ID #91-58-0007), Gladding McBean (Operator), Richard Hutchens (Agent), Yuba County.

Executive Officer Testa stated that the SMGB serves as the Lead Agency under SMARA for the County of Yuba. The site encompasses about 114 acres of which none were deemed disturbed at time of inspection. Based on the most recent 2008 inspection, the FACE was adjusted from \$5,260 to \$1,072.50. The FACE has been reviewed by OMR and SMGB staff, and deemed adequate for the purpose of reclaiming the site in a manner consistent with the approved reclamation plan.

Board Member Garner moved to approve the adjusted financial assurance cost estimate. Board Member Lund seconded and the motion carried with a unanimous voice vote.

11. Approval for Site Closure, Adobe Road Borrow Pit (CA Mine ID #91-52-0039), Ladd and Associates (Operator), Craig Wiseman (Agent), City of Red Bluff.

Executive Officer Testa stated that the SMGB approved a reclamation plan for the Adobe Road Borrow Pit in March 2002. For the past few years, site closure consideration was dependent upon the planting of 38 oak trees, and survival of 50 percent, or 19 trees. At its April 2008 regular business meeting, the SMGB recognized that 20 trees were planted in November 2007, and have survived as of April 2008, and wished to assure that the trees have survived over the summer months before they considered closure. As of November



2008, 21 oak trees, or 55 percent of the total planted on the site, have survived. The SMGB is considering site closure for the Adobe Road Borrow Pit, and that the site has been reclaimed in accordance with the approved reclamation plan and SMGB's regulations.

Board Member Tepel moved to approve the site closure for the Adobe Road Borrow Pit. Board Member Garner seconded and the motion carried with a unanimous voice vote.

12. **Public Hearing:** Issuance of an Order to Comply to Painted Hills (Super Creek) Mine, (CA Mine ID # 91-33-0003), Whitewater Rock & Supply Company (Operator), Al Bankus (Agent), City of Desert Hot Springs, to Correct Violations of the Surface Mining and Reclamation Act (Public Resources Code Section 2710 et seq.) and the Approved Reclamation Plan.

Executive Officer Testa stated that the SMGB is the SMARA lead agency for the Super Creek Quarry located in the City of Desert Hot Springs. As a result of past inspections, several violations have been reported for this operation including encroachment into a natural drainage, inadequate soil erosion control measures for sidecasted tailings, inadequate revegetation measures, and potentially unstable slopes with relatively recent earthquake hazards studies predicting higher earthquake ground motion values than those utilized by the site in the past. At its December 2007 regular business meeting, the SMGB requested that the operator provide an adequate amended reclamation plan within 60 days. Following a site meeting between representatives of OMR, BLM, the Operator and their legal counsel, and the SMGB, an amended reclamation plan dated November 2008 was prepared by a new consultant and provided to the SMGB for review and comment. Although two significant deficiencies remain, that pertaining to slope instability and revegetation, the amended reclamation plan was a vast improvement from earlier versions. The submittal is currently under formal review by OMR and SMGB staff. The Executive Officer recommended that the SMGB defer action on the Order to Comply at this time, and that the SMGB re-consider this matter at its upcoming March 12, 2009, regular business meeting, to allow sufficient time for review and for the operator to adequately respond to all remaining issues.

- Board Member Lund requested that discussion on this matter be deferred until the SMGB regular business meeting scheduled on March 12, 2009, to be held in Palm Springs.
- Board Member Bly-Chester concurred.

13. Adoption of 2009 SMGB Meeting Calendar.

Executive Officer Testa stated that the SMGB, pursuant to Public Resources Code Section 668, is required to hold its meetings at such times and at such places as it shall determine, and its Bylaws require a minimum of 6 meetings per year. The calendar being considered reflects ten scheduled meetings, the second Thursday of each month (with exception to the month of February in which the meeting would be held on February 5. No meetings are planned for the month of January and August. The SMGB at any time can adjust the schedule, assuming adequate public notice is given. The dates provided no conflict with certain professional meetings scheduled for 2009.



- Member Bly-Chester commented on the need for an adjustment from the routine scheduling of a regular business meeting in January and February, with a resultant meeting scheduled for February 5, 2009, and that this adjustment was consistent with the Governor's request to minimize cost, when appropriate.

Board Member Tepel moved to adopt the calendar. Board Member Lund seconded and the motion carried with a unanimous voice vote

14. Discussion of State Mining and Geology Board's Strategic Plan.

The Executive Officer stated that the SMGB's Strategic Plan was initially adopted in March 1997, and revised in November 2000, and most recently in March 2007. Public Resources Code Sections 660-678 defines the general role and authority of the SMGB. Member Tepel requested that this matter be placed on the agenda to kick-off discussions. No recommendations are provided at this time.

- Chairman Jones requested that the Executive Officer prepare a summary of objectives achieved since the Strategic Plan was revised in 2007, and have such compilation available to the SMGB when this matter is before this SMGB in early 2009.

XI. Special Reports and Department Presentations [Possible Action]

[Based on these Reports, the Chair may instruct the SMGB staff to initiate administrative actions.]

15. Inspection reports pursuant to PRC Section 2772(b) for the following surface mining operations may be presented for SMGB acceptance consideration as being in accordance with the SMGB's requirements:

- Richmond (Chevron) Quarry (CA Mine ID #91-07-0006), City of Richmond.
- Pt. Richmond (Canal) Quarry (CA Mine ID #91-07-0007), City of Richmond.
- Cool Cave Quarry (CA Mine ID #91-09-0005), El Dorado County.
- Marin Quarry (CA Mine ID #91-09-0015), El Dorado County.
- Atkinson Pit I (CA Mine ID #91-19-0004), City of Compton.
- Super Creek Quarry (CA Mine ID #91-33-0003), City of Desert Hot Springs.
- Garnet Pit (CA Mine ID #91-33-0031), City of Palm Springs.
- Adobe Road Borrow Pit (CA Mine ID #91-52-0039), City of Red Bluff.
- Teichert Hallwood Facility (CA Mine ID #91-58-0006), Yuba County.
- Parks Bar Quarry (CA Mine ID #91-58-0013), Yuba County.
- Silica Resources, Inc. (CA Mine ID #91-58-0022), Yuba County.
- Silica Resources, Inc. (formerly Garcia Sand & Gravel), (CA Mine ID #91-58-0023), Yuba County.



Executive Officer Testa stated that the SMGB serves as the lead agency under SMARA for two counties, nine cities, and the Bay Conservation and Development Commission (BCDC). Twelve SMARA mine inspection reports are being presented today for acceptance consideration by the SMGB, and acknowledgement that the reports have been prepared in accordance with the regulatory requirements of SMARA and the SMGB's guidelines.

- Mr. Will Arcand, Senior Engineering Geologist with the SMGB, presented a summary of each inspection report.
- Ms. Catherine Vos, Environmental Engineer representing Granite Construction, was available to address any questions the SMGB may have regarding the Garnet Pit report.

Board Member Lund moved to accept the inspection reports. Board Member Tepel seconded and the motion carried with a unanimous voice vote.

XII. SMGB Committee Reports [Information and Possible Action]

- Geohazards Committee (Chairman Tepel)
 - Alquist-Priolo Technical Advisory Committee (Chairman Tepel)

Committee Chairman Tepel stated that the Geohazards Committee continues to work on the technically challenging situations at the Richmond Quarry, and that the Alquist-Priolo Technical Advisory Committee is scheduled to meet again in early 2009.

- Surface Mining and Standards Committee (Chairman Isham)

No Committee report provided.

- Minerals and Geologic Resources Committee (Chairman Garner)

No Committee report provided.

- Policy and Legislation Committee (Chairman Jones)

No Committee report provided.

XIII. Continuing Business [Information]

[This item is provided as an opportunity for any SMGB member to receive information on or any items of continuing interest to the SMGB.]

16. Discussion of Public Complaint Pertaining to the Pacific Aggregates, Nichols Canyon Mine (CA Mine ID #91-33-0098), Barry Coley (Agent), Pacific Aggregates (Operator), City of Lake Elsinore, Riverside County.

Executive Officer Testa stated that In December 2007 the SMGB received a complaint from a surface mining operator within the jurisdiction of the City of Lake Elsinore, which serves as a SMARA lead agency. The complaint pertained to the appropriateness of an entitlement of another surface mining operation also located within the City's jurisdiction. The surface mining operator was not questioning the overall performance of the City as a SMARA lead agency. The SMGB sought assistance from OMR to review this particular aspect of the allegation. In summary, OMR in their review accepted the City's determination that Pacific Clay Products, and its subsidiary, Pacific Aggregates, were not required to obtain a permit



based on a vested right, to operate the Nichols Canyon Mine. The appropriate recourse for Wyroc in this matter, or for any interested individual, would be to 1) exhaust all administrative remedies with the City, and 2) seek redress through the courts, if appropriate. OMR continued to work with the City in regards to any outstanding issues associated with the 1978 Reclamation Plan for the Nichols Canyon Mine. At its April 2008 regular business meeting, the SMGB requested that the Executive Officer request from the City information the City relied upon when it made its determination. The City has been non-responsive; however, it was the Executive Officer's understanding that the City relied on a determination that was previously made by the County, when the County served as the lead agency.

- Chairman Jones directed the Executive Officer to conduct a review of the City's overall performance as a lead agency pursuant to SMARA, and to have this matter before the SMGB at its upcoming March 2009 regular business meeting.

XIV. New Business [Information]

[This item is provided as an opportunity for any SMGB member to bring any item of new business to the SMGB's attention for further discussion and further action.] Items to be discussed:

XV. Executive Session (Closed to the Public) [Possible Action]

[The SMGB will discuss information from its legal counsel on pending litigation and may take appropriate actions based on this information. This session is being held under Government Code, Section 11126.] Items to be discussed:

- a). Brunius vs. SMGB, Case # PC 20010449, El Dorado County Superior Court.
- b). Kibbe Area Planning and Protection Association; Forest Tull vs. SMGB; A. Teichert & Sons, Inc.; and DOES 1010, Case No. 34-2007-00882657-CU-WM-GOS, Sacramento County Superior Court.
- c). An un-named case where there is potentially significant exposure to litigation against the Board.

Re-open Regular Business Session, Announce Results of Executive Session

SMGB's Legal Counsel, Ms. Deborah Wordham, Deputy Attorney General, announced that the SMGB met in closed session to discuss pending litigation. In the matter of Brunius vs. SMGB, Case # PC 20010449, El Dorado County Superior Court, the following actions were taken: 1) the Policy and Legislation Committee will commence steps to consider regulatory changes to SMARA, 2) the Executive Officer will coordinate and work with OMR to prepare a reclamation plan for the Weber Creek Quarry, 3) the Executive Officer will consult with the SMGB's legal counsel to assess the operator's available assets, 4) the Executive Officer will affirm, coordinate, and conduct an inspection of the Weber Creek Quarry to address public safety issues, and identify legal measures to correct such issues, and 5) a joint defense agreement between the OMR and SMGB will be developed.

XVI. Announcements of Future Meetings



February 5, 2009, was announced as the next meeting, and the City of Sacramento as the location.

XVII. Adjournment

The meeting was adjourned at 3:15 P.M.

